

REMARKS

Upon receipt of the Office Action mailed December 2, 2008, Claims 1-29 were pending, of which Claims 5-6, 9-21 and 24-29 were withdrawn from further consideration as being drawn to non-elected subject matter, Claims 1-4, 22 and 23 were rejected and Claims 7 and 8 were objected to.

Claims 1-10, 12, 14, 16, 18, 20 and 22-25 are amended herein, as discussed in more detail below. Claims 13 and 15 are amended herein to correct obvious typographical errors.

Entry of the above amendments is respectfully requested in that the amendments are fully supported by the specification as originally filed. Reconsideration of the claimed subject matter is respectfully requested in view of the foregoing amendments and the following remarks.

Withdrawal of Finality of Last Office Action

Applicants acknowledge the withdrawal of the finality of the previous Office Action, thereby allowing the prosecution of the application to continue.

Status of the Application

Applicants acknowledge that the Examiner's statement as to the status of the currently pending claims is correct.

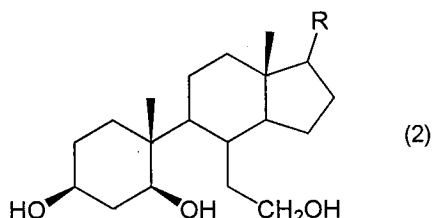
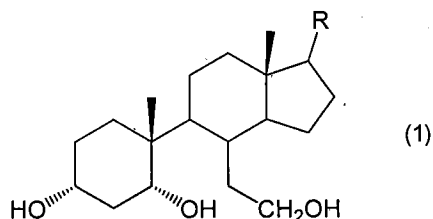
Claim Rejections - 35 USC § 102

Applicants acknowledge the withdrawal of the previous rejection of Claims 1-4, 22 and 23 under 35 U.S.C. 102(b) in view of the disclosure of Madaio *et al.*¹.

New Claim Rejections - 35 USC § 103

The Examiner newly rejected Claims 1-4, 22 and 23 under 35 U.S.C. 103(a) as being obvious in view of the teachings of JP 05221901 A ("Niwa"). In particular, the Examiner contends that Niwa teaches lipid-lowering compounds of the following formulae:

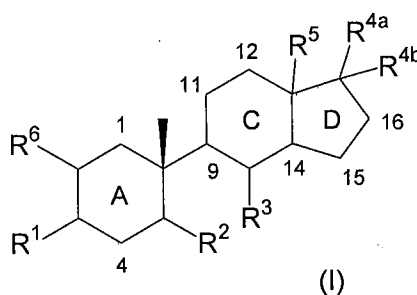
¹ Madaio, A. *et al.*, *Journal of Natural Products* (1990), Vol. 53, No. 3, pp. 565-572.



where R is defined therein as a hydrocarbon group, which includes C₃-C₁₀ alkyls and alkenyls. In noting that Niwa does not exemplify compounds where R is alkenyl, the Examiner contends that it would have been obvious to one of ordinary skill in the art to make such compounds from the disclosure of Niwa with the reasonable expectation that such compounds would have similar lipid-lowering properties.

Applicants traverse this rejection for the following reasons.

Claim 1 (upon which Claims 2-21 depend) of the instant application has been amended to be directed to compounds of formula (I):



where, *inter alia*, R^{4a} and R^{4b} together form alkylidene or haloalkylidene. "Alkylidene" is defined as a straight or branched hydrocarbon radical group consisting solely of carbon and hydrogen, containing at least one double bond, having from one to seven carbon atoms, and that is attached to the rest of the molecule through a double bond, and "haloalkylidene" is defined as an alkylidene group substituted by one or more halo atoms. Amended Claims 22 and 23 are directed to pharmaceutical compositions comprising the compounds of formula (I) and a method of using the compounds of formula (I), respectively.

Although Niwa discloses that the R group can be an alkenyl group, Applicants respectfully submit that Niwa does not fairly suggest to one skilled in the art that the R group can be an alkylidene or a haloalkylidene group which is attached to the ring through a double

bond. This is particularly true, given that the R group in all of the compounds exemplified in Niwa, *i.e.*, 6-methylheptan-2-yl, is attached to the ring by a single bond.

Furthermore, Applicants respectfully submit that there is no teaching or suggestion present in Niwa which would lead one skilled in the art to replace the 6-methylheptan-2-yl group in the compounds specifically prepared therein with an alkylidene or haloalkylidene group with any reasonable expectation that the resulting compounds would be useful as lipid-lowering agents, particularly in view of the fact that the R group in the compounds specifically prepared therein is unaltered by the processes disclosed therein. There is certainly no suggestion in Niwa that would lead one skilled in the art to make such a replacement AND to replace the 2-hydroxyethyl group and the two hydroxy groups in the compounds specifically disclosed therein in order to arrive at compounds encompassed by the scope of amended Claim 1. Accordingly, Applicants respectfully submit that the teachings of Niwa do not render obvious the *entire* scope of the currently claimed compounds as set forth in amended Claim 1, and therefore respectfully request the withdrawal of the rejection of Claims 1-4, 22 and 23 under 35 U.S.C. 103(a) in view thereof.

Upon allowance of amended Claim 1, Applicants respectfully request that the Examiner expand the examination to include the subject matter of withdrawn Claims 5-6 and 9-21, which have been amended herein to include all the limitations of Claim 1.

In addition, Applicants respectfully request the rejoinder of method of use Claims 24-25, which have also been amended to include all the limitations of the compounds of formula (I) as set forth in Claim 1.

Favorable consideration of Claims 1-26 is therefore respectfully requested in view of the foregoing remarks and issuance of a Notice of Allowance thereon is earnestly solicited.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Respectfully submitted,

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